

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

UNITED STATES OF AMERICA,

Plaintiff,

V.

Case Nos. 3:11-cr-0016

JAMES STEPHENS,

Defendant.

ORDER

BEFORE THE COURT is the *pro se* motion of James Stephens (“Stephens”) to reduce sentence or for compassionate release under 18 U.S.C. § 3582(c)(1)(A). (ECF No. 460.) The United States opposes the motion. (ECF No. 461.)

Pursuant to 18 U.S.C. § 3582, a district court has the authority to modify an imposed sentence after a defendant has met the exhaustion requirement “if it finds that . . . extraordinary and compelling reasons warrant such a reduction.” *United States v. Pawlowski*, 967 F.3d 327, 329 (3d Cir. 2020) (quoting 18 U.S.C. § 3582(c)(1)(A)(i)). “But before granting compassionate release, a district court must ‘consider [] the factors set forth in [18 U.S.C. §] 3553(a) (“Section 3553(a)”), to the extent that they are applicable.” *Id.*; 18 U.S.C. § 3582(c)(1)(A).

Among the Section 3553(a) factors in the analysis is the length of time the defendant has served in relation to his imposed term of incarceration. In the instant case, there is a discrepancy in the record as to when Stephens was first detained and whether that detention and incarceration have been continuous since his initial detention. The docket reflects that Stephens initially appeared before the Court on May 18, 2011, and was ordered detained on May 31, 2011. In his motion, Stephens states “he has served 9 years in prison.” (ECF No. 460 at 1.) Yet Stephens’ Presentence Investigation Report references “May 18, 2012” as the date Stephens was arrested and states that he has been detained since that date.¹

The premises considered, it is hereby

¹ The docket does not indicate Stephens was arrested in May of 2012.

United States v. Gonzalez-McFarlane

Case No. 3:19-cr-0056

Order

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ORDERED that, **no later than November 6, 2020**, both parties shall file a supplemental brief, along with supporting documentation evidencing the length of Stephens' incarceration for this offense.

Dated: October 30, 2020

/s/ Robert A. Molloy

ROBERT A. MOLLOY

District Judge